

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

PATRICK MUHAMMAD

v.

MARYLAND COURT OF APPEALS,
ET AL.

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: CIVIL NO. CCB-06-3444
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MEMORANDUM

Now pending is the defendants' motion to dismiss plaintiff Patrick Muhammad's second amended complaint. The motion will be granted.

Mr. Muhammad's complaint arises out of state court disciplinary proceedings including his disbarment. It is not necessary to recite the complex history of these events. The first complaint in this case, filed December 27, 2006, named judges on the Maryland Court of Appeals, the State of Maryland, the Attorney General, the Attorney Grievance Commission, and others. Judge Marvin Garbis was assigned to the case. Subsequently, in response to certain allegations by the plaintiff, without agreeing recusal was warranted, Judge Garbis nonetheless requested the case be randomly reassigned. It was received by Judge J. Frederick Motz on February 8, 2007, who granted a scheduling request by the defendants on February 22, 2007. Mr. Muhammad then filed a motion to recuse Judge Motz, which Judge Motz found frivolous but nonetheless granted on March 27, 2007. The case was randomly reassigned to the undersigned judge. On May 27, 2007, I entered an order requiring the plaintiff to clarify his complaint. On June 8, 2007, Mr. Muhammad filed both an "emergency motion to recuse and change venue" and his first amended complaint adding Judges Garbis, Motz, and Blake as defendants based on the actions we have taken in this case.

The above procedural history is recited in some detail to make it clear why, despite the

fact I am named as a defendant, I do not find recusal warranted. The plaintiff's claims against me and the other federal judges involved with this case are patently frivolous, barred by judicial immunity, and brought only in an obvious attempt to delay the proceedings and shop for a more favorable judicial forum.

The claims against the other defendants in this case are equally without merit. As thoroughly and correctly explained in the defendants' memorandum in support of their motion to dismiss, the plaintiff's claims are barred for many reasons. First, claims against the state Court of Appeals judges for acts committed within their judicial jurisdiction are barred by absolute judicial immunity. *See, e.g., Pierson v. Ray*, 386 U.S. 547, 553-54 (1967). All claims against the State and its constituent entities are barred by Eleventh Amendment immunity, which has not been waived. *See, e.g., Board of Trs. of Univ. of Ala. v. Garrett*, 531 U.S. 356, 363 (2001). Further, the State and its agencies are not "persons" subject to suit under 42 U.S.C. § 1983. *See Will v. Michigan Dep't. of State Police*, 491 U.S. 58, 70-71 (1989). Any state law tort claims, even if otherwise viable, are barred by Mr. Muhammad's failure to comply with the Maryland Tort Claims Act, *see* Md. Code. Ann., State Gov't §12-106(b). Bar counsel, as individuals, and others involved in the plaintiff's disciplinary process either have absolute quasi-judicial immunity, *see Sparks v. Character and Fitness Comm. of Kentucky*, 859 F.2d 428, 430-31 (6th Cir. 1988) or would be entitled to qualified immunity under 42 U.S.C. § 1983; state law immunity also would apply because no sufficient showing of malice has been alleged.¹ Further, while former Governor Robert Ehrlich is named as a defendant, no factual basis for a claim is

¹ Because of the myriad other grounds for dismissal of this case, I will not address the applicability of the *Rooker-Feldman* doctrine.

stated against him in the complaint itself.

In short, Mr. Muhammad's entire complaint will be dismissed for lack of subject matter jurisdiction under Fed. R. Civ. P. 12(b)(1) and failure to state a claim under Fed. R. Civ. P. 12(b)(6). A separate Order follows.

February 8, 2008

Date

/s/

Catherine C. Blake
United States District Judge

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ORDER

For the reasons stated in the accompanying Memorandum, it is hereby **ORDERED** that:

1. the defendants' motion to dismiss the amended complaint (docket entry no. 35) is

Granted;

2. this case is **Dismissed in its entirety**; and

3. the Clerk shall send copies of the Memorandum and this Order to the plaintiff, Patrick Muhammad, and counsel of record.

February 8, 2008

Date

/s/

Catherine C. Blake

United States District Judge